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20 **UNITED STATES DISTRICT COURT**

21 **DISTRICT OF NEVADA**

22 SCOTT DALE, Individually and as Executor of
23 the Estate of CAROL ANN SCANLON,
24 deceased;

25 Case No.: 2:24-cv-01896-JAD-EJY

26 Plaintiffs,

27 **STIPULATED DISCOVERY PLAN AND**
SCHEDULED ORDER
[PROPOSED]

28 vs.

29 UNITED STATES; and DOES 1-50,

30 Defendant.

31 **SPECIAL SCHEDULING REVIEW**
32 **REQUESTED BY DEFENDANT**

33 Plaintiff, SCOTT DALE, individually and as Executor of the Estate of CAROL ANN
34 SCANLON, by and through his counsel of record and Defendant, UNITED STATES, by and through
35 its counsel of record, hereby submit this Stipulated Discovery Plan and Scheduling Order pursuant
36 to Fed. R. Civ. P. 26(f) and LR 26-1.

I. DEFENDANT'S BASIS FOR SPECIAL REVIEW

Four different sets of plaintiffs have initiated four separate lawsuits against the United States of America under the Federal Tort Claims Act (“FTCA”) bringing wrongful death claims alleging negligence by Federal Aviation Administration (“FAA”) air traffic control, arising from the midair collision of two aircraft on approach to North Las Vegas Airport on July 17, 2022. The cases are in different stages of litigation. Specifically:

On August 13, 2024, the Chiaramonti Plaintiffs filed their complaint seeking compensation for the wrongful death of Anthony Chiaramonti (the “Chiaramonti Action,” Case No. 2:24-cv-01484), who was in the Cessna 172 plane owned by Airwork Las Vegas, Inc. (the “Airwork Plane”), and, on October 18, 2024, Defendant filed its answer in the Chiaramonti Action.

On August 13, 2024, the Tidwell Plaintiffs also filed their complaint seeking compensation for the wrongful death of Zachary Rainey who was also in the Airwork Plane (the “Tidwell Action,” Case No. 2:24-cv-01490), and on October 21, 2024, Defendant filed its answer in the Tidwell Action.

On September 17, 2024, another plaintiff filed her complaint in *Cathy Zee Anderson, as personal representative of the Estate of Donald S. Goldberg v. United States of America*, Case No. Case No. 2:24-cv-01737-JAD-EJY, seeking compensation for the wrongful death of Donald S. Goldberg who was in the Piper PA 46-350P owned by Mr. Goldberg (the “Goldberg Plane”). The Defendant filed its answer in this case on December 10, 2024.

On October 10, 2024, Plaintiff, Scott Dale, individually and as Executor to the Estate of Carol Ann Scanlon filed his complaint in *Scott Dale, Individually and as Executor of the Estate of Carol Ann Scanlon, deceased, v. United States*, Case No. 2:24-cv-01896-JAD-EJY, seeking compensation for the wrongful death of Carol Scanlon who was also in the Goldberg Plane. The United States filed a Motion to Dismiss Individual Claims and to Strike Doe Defendants in Lieu of an Answer on December 26, 2024.

II. JUSTIFICATION FOR DISCOVERY PERIOD LONGER THAN 180 DAYS

Since there are the four separate lawsuits claiming wrongful deaths arising from the same mid-air collision and alleging negligence by FAA air traffic control, the Parties feel the only

1 reasonable approach is coordinated deposition discovery across all four cases to avoid multiple
 2 depositions of the same witnesses and to avoid multiple inspections and disruptions of the control
 3 tower at North Las Vegas Airport.

4 **III. RULE 26(f) CONFERENCE**

5 Pursuant to Fed. R. Civ. P. 26(f), the parties conferred by telephone on January 15, 2025.
 6 Stephen J. Mendenhall, Esq. of HENNESS & HAIGHT and Joel D. Henriod, Esq. of EGLET
 7 ADAMS EGLET HAM HENRIOD attended on behalf of Plaintiff. Debra Fowler, Esq. of the United
 8 States Department of Justice attended for Defendant.

9 **IV. DISCOVERY PLAN**

10 **A. LR 26-1(a) & Initial Disclosures under Fed. R. Civ. P. 26(a)(1)**

11 The parties will exchange their Fed. R. Civ. P. 26(a)(1)(C) initial disclosure statements by
 12 Wednesday, **January 29, 2025.**, 14 days from the date of their Fed. R. Civ. P. 26(f) conference.

13 **B. Subjects on Which Discovery May Be Needed (Fed. R. Civ. P. 26(f)(3)(B))**

14 Discovery is needed on all liability and damages issues, including affirmative defenses. The
 15 parties agree that issues relating to liability and damages discovery should be conducted
 16 simultaneously, with the exception noted in Section II above. The schedule set forth below will allow
 17 the parties to begin written and documentary discovery until such time as the United States has
 18 appeared in all four cases arising from this midair collision, at which time the parties in all four cases
 19 will confer on the need for a revised joint discovery schedule for depositions and inspections. Expert
 20 discovery may be conducted after liability and damages discovery is completed. The parties propose
 21 the following schedule:

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- 23 **1. Discovery Cut-Off: August 29, 2025.**
- 24 **2. Deadline for amending pleadings/adding parties: May 23, 2025.**
- 25 **3. Fed. R. Civ. P. 26(a)(2) Disclosures:**
 - 26 **i. Expert disclosures: June 13, 2025.**
 - 27 **ii. Rebuttal expert disclosures: August 1, 2025.**
- 28 **4. Dispositive motion deadline: September 26, 2025.**

1 **5. Joint pretrial order: October 24, 2025.**

2 However, if dispositive motions are filed, the deadline for filing the joint pretrial order will
3 be suspended until 30 days after decision on the dispositive motions or further court order.

4 **6. Fed. R. Civ. P. 26(a)(3) Disclosures:**

5 Unless the Court orders otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(3), and
6 any objections to them, must be included in the joint pretrial order in accordance with LR 26-1(b)(6).

7 **7. Alternative Forms of Case Disposition:**

8 In compliance with LR 26-1(b)(7), the parties certify they have conferred about the
9 possibility of using alternative dispute-resolution processes including mediation, arbitration, and if
10 applicable, early neutral evaluation. Plaintiffs are open to mediation, and Defendant believes that
11 discovery concerning Plaintiffs' damages is needed before alternative dispute methods are viable.

12 **8. Alternative Forms of Case Disposition:**

13 The parties further certify that they have considered consent to trial by the Magistrate Judge
14 under 28 U.S.C. § 6363(c) and Fed. R. Civ. P. 73, as well as use of the Court's Short Trial Program
15 (General Order 2013-01). Neither Plaintiffs nor Defendant consent to trial by a Magistrate Judge
16 under 28 U.S.C. § 636(c) or use of the Short Trial Program.

17 **9. Electronically Stored Information ("ESI"):**

18 The parties recognize that ESI may be involved in this matter and prefer to deal with such
19 information on an ad hoc basis, as issues may arise. The parties shall meet and confer and otherwise
20 and work in good faith with respect to the production of ESI. Further, the parties have discussed
21 whether they intend to present evidence in an electronic format to the Court as fact-finder at trial, but
22 no stipulations have been reached at this time regarding providing discovery in an electronic format
23 compatible with the Court's electronic evidence display system.

24 **10. Discovery Process:**

25 The parties may conduct discovery within the scope of Fed. R. Civ. P. 26(b).

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1 **11. Privileged or Protected Documents:**

2 The parties do not at this juncture anticipate production of confidential, trade secret, and/or
3 commercially sensitive information during the pendency of this action. As such, the parties see no
4 reason to propose a blanket protective order to be entered by the Court at this time. In the event that
5 issues of confidentiality arise relating to any document any party seeks in discovery, the parties
6 intend to work together in good faith to reach a compromise and attempt to submit a stipulated
7 protective order to the Court without need to resort to motion practice.

8 **12. Interim Status Reports:**

9 The interim status report may be filed no later than sixty (60) days prior to the discovery cut-
10 off date, June 30, 2025.

11 **13. Electronic Evidence:**

12 The attorneys of record in this matter are registered for electronic filing with the Court. Any
13 document electronically filed with the Court is deemed to be sufficiently served on the other party
14 as of the date the document is electronically filed with the Court. During their conference, the Parties
15 agreed to accept service of materials that are not served by means of the CM/ECF system, including
16 discovery requests, responses and expert reports via email, with such service being treated the same
17 as hand delivery for purposes of the Federal Rules of Civil Procedure.

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1 **14. Extensions or Modifications of the Discovery Plan and Scheduling Order:**

2 LR 26-3 governs modification or extensions of this Discovery Plan and Scheduling Order.

3 DATED this 30th day of January, 2025.

4 HENNESS & HAIGHT

5 */s/ Stephen J. Mendenhall, Esq.*

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21 UNITED STATES DEPARTMENT OF
22 JUSTICE

23 */s/ Debra D. Fowler*

24 DEBRA D. FOWLER

25 Senior Aviation Counsel

26 ROBERT J. GROSS

27 Senior Trial Counsel

28 U.S. Department of Justice.

1 Civil Division, Torts Branch

2 Post Office Box 14271

3 Washington, D.C. 20044-4271

4 *Attorneys for Defendant*

5 **IT IS SO ORDERED.**

6 
7 UNITED STATES MAGISTRATE JUDGE

8 **DATED: January 30, 2025**